

STATE OF NORTH CAROLINA

WAKE COUNTY

BEFORE THE
DISCIPLINARY HEARING COMMISSION
OF THE
NORTH CAROLINA STATE BAR
14 DHC / 2

THE NORTH CAROLINA STATE BAR,

Plaintiff

v.

ROBERT A. BRADY,

Attorney,

Defendant

COMPLAINT

Plaintiff, complaining of Defendant, alleges and says:

1. Plaintiff, the North Carolina State Bar ("Plaintiff" or "State Bar"), is a body duly organized under the laws of North Carolina and is the proper party to bring this proceeding under the authority granted it in Chapter 84 of the General Statutes of North Carolina, and the rules and regulations of the North Carolina State Bar promulgated thereunder.

2. Defendant, Robert A. Brady ("Defendant" or "Brady"), was admitted to the North Carolina State Bar on 21 August 1977 and is, and was at all times referred to herein, an attorney at law licensed to practice in North Carolina, subject to the rules, regulations and Rules of Professional Conduct of the North Carolina State Bar and the laws of the State of North Carolina.

3. During the relevant period referred to herein, Brady actively engaged in the practice of law in the State of North Carolina and maintained a law office in Cary, Wake County, North Carolina.

4. On or about 1 April 1994, Brady and Dr. Sharon Alexander ("Alexander") executed a Separation and Property Settlement Agreement ("Agreement").

5. Pursuant to the Agreement, Brady was to continue to serve as custodian of an existing Uniform Transfer to Minors Act account ("UTMA account") that was created for his daughter pursuant to N.C. Gen. Stat. § 33A-1 *et seq.* The Agreement further required Brady to provide Alexander with semi-annual statements for the UTMA account.

6. Brady was to serve as custodian of the UTMA account until the custodial relationship terminated upon his daughter's twenty-first birthday.

7. Funds in the UTMA account were to be used only for Brady's daughter's post-high school education and related living expenses. All contributions and gifts to the UTMA account were irrevocable, even those contributions and gifts made by the custodian.

8. Brady had a fiduciary duty to his daughter as custodian of her UTMA account.

9. Beginning in or about July 2004 through, at the latest, August 2008, Brady withdrew funds from the UTMA account for his personal use (to include payment for European vacations and elective plastic surgery for his wife). These funds were not used for his daughter's post-high school education and related living expenses.

10. Brady deposited funds he withdrew from the UTMA account into his firm operating account and he used funds from the UTMA account to pay ongoing debt and bills that were due.

11. In total, Brady withdrew \$82,000.00 from the UTMA account.

12. Brady's withdrawals were made before his daughter's twenty-first birthday.

13. Brady's withdrawals from the UTMA account were made without authorization and Brady used these funds for a purpose other than for the benefit of his daughter in violation of N.C. Gen. Stat. § 33A-1 *et seq.*

14. Brady breached his fiduciary duty to his daughter.

15. Brady did not notify Alexander of his withdrawals from the UTMA account.

16. Brady failed to provide Alexander with semi-annual UTMA account statements as required by the Agreement.

17. As a result of Brady's withdrawals from the UTMA account, the Internal Revenue Service imposed a tax increase on his daughter.

18. When Brady was confronted by Alexander concerning the withdrawals, Brady misrepresented the amount of his withdrawals from the UTMA account.

THEREFORE, the State Bar alleges that Defendant's foregoing actions constitute grounds for discipline pursuant to N.C.G.S. § 84-28(b)(2) in that he violated one or more of the Rules of Professional Conduct in effect at the time of the actions as follows:

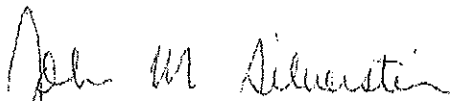
- (a) By converting funds from his daughter's UTMA account for his personal use in violation of N.C. Gen. Stat. § 33-A-1 *et seq.*, Defendant committed a criminal act (embezzlement) that reflects adversely on his honesty, trustworthiness or fitness as a lawyer in violation for Rule 8.4(b), and engaged in conduct involving dishonesty, fraud, deceit or misrepresentation in violation of Rule 8.4(c); and

- (b) By falsely representing the amount of his withdrawals to Alexander, Defendant engaged in conduct involving dishonesty, fraud, deceit or misrepresentation in violation of Rule 8.4(c).

WHEREFORE, Plaintiff prays that:

- (1) Disciplinary action be taken against Defendant in accordance with N.C. Gen. Stat. § 84-28(c) and 27 N.C.A.C. 1B § .0114, as the evidence on hearing may warrant;
- (2) Defendant be taxed with the administrative fees and actual costs permitted by law in connection with this proceeding; and
- (3) For such other and further relief as the Hearing Panel deems appropriate.

This the 14th day of April, 2014.



John Silverstein, Chair
Grievance Committee



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